



May 4, 2015

National Freedom of Information Officer
U.S. EPA, FOIA and Privacy Branch
1200 Pennsylvania Ave., N.W. (2822T)
Washington, D. C. 20460

Dear Sir or Ms.:

By copy of this letter, I am filing a formal appeal of the response to EPA Freedom of Information Act request EPA R10-2015-006362, dated April 27, 2015. In my original request, dated January 30, 2015 (copy enclosed), I requested a copy of the "analysis plan", as defined in EPA's *Guidelines for Ecological Risk Assessment* (Section 3.5), for EPA's document entitled *External Review Draft: An Assessment of Potential Mining Impacts on Salmon Ecosystems of Bristol Bay, Alaska*.

Review of EPA's April 27, 2015 response will show that EPA simply provided me a list of the documents published by them regarding the Bristol Bay Assessment process. Review of Section 3.5 of EPA's *Guidelines for Ecological Risk Assessment* will show that the "analysis plan" that I am seeking is required BEFORE the preparation of an ecological risk assessment. The requested "analysis plan" is only applicable to the preparation of the first document entitled *External Review Draft: An Assessment of Potential Mining Impacts on Salmon Ecosystems of Bristol Bay, Alaska*.

Review of my January 30, 2015 letter will show that my request was related specifically to the procedural requirements of Section 3.5 of EPA's *Guidelines for Ecological Risk Assessment*. EPA has repeatedly claimed in various documents related to the Bristol Bay Assessment that the various drafts of the assessment were prepared according to EPA's *Guidelines for Ecological Risk Assessment*. If these assertions are true, then the "analysis plan" I am seeking should have been prepared at the beginning of the risk assessment process.

My appeal of EPA FOIA response is based on the following topics:

1. EPA's response to my request for this "analysis plan" was to provide a list of the documents EPA has published regarding the Bristol Bay Watershed Assessment. This response is both insulting and totally inappropriate. The "analysis plan" that I am seeking applies specifically to the preparation of the first external draft of the Bristol Bay Watershed Assessment, not every document published by EPA relating to Bristol Bay. EPA's logic that all of these documents are somehow relevant to my request is absurd and not based in fact or reality. EPA apparently is unaware of their own requirements for preparation of an ecological risk assessment. Again, I am seeking the "analysis plan", as required by Section 3.5, that was used to guide the preparation the First External Draft of the Bristol Bay Watershed Assessment.

2. In my letter, I requested as my item number 2 the documentation of who approved the "analysis plan" that I requested in my item 1. EPA's response was that they do not have records "that are responsive to this portion of your request." In my January 23, 2015 letter regarding a data quality assessment requirement, I point out that Section 4.1 of EPA's *Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility and Integrity of Information Disseminated by Environmental Protection Agency*, states that EPA will appoint a quality assurance manager or equivalent to conduct independent oversight of the data quality system. I view EPA's *Guidelines for Ecological Risk Assessment* as a component of EPA's responsibility to ensure quality, objectivity, utility and integrity of the information disseminated to the public. For EPA to claim they do not have any records is false. Someone in the agency has responsibility for data quality and certainly someone had to approve the quality of data assessment and "analysis plan" used in preparing the first external review draft.
3. Based upon EPA's responses to my January 23, 2015 and January 30, 2015 letters regarding data quality and the subject "analysis plan", it appears that EPA did not develop these required documents. Did EPA develop the "analysis plan" that is the subject of this appeal?

I again repeat my original FOIA request as stated in my January 30, 2015 letter. I sincerely hope that EPA will give my request a serious and timely consideration. I look forward to your prompt response.

Sincerely,



Randy Bailey

(b) (6)

January 30, 2015

Ms. Gina McCarthy
Administrator, U.S. EPA
1200 Pennsylvania Ave., N.W.
Washington, D. C. 20004

Dear Administrator McCarthy:

I have recently reviewed a document prepared and released by EPA entitled: *An Assessment of Potential Mining Impacts on Salmon Ecosystems of Bristol Bay, Alaska*. I have also recently reviewed EPA's *Guidelines for Ecological Risk Assessment* published in April 1998. The Assessment document states that it is an ecological risk assessment and that it was prepared in accordance EPA's *Guidelines for Ecological Risk Assessment*.

I noticed in Section 3.5 of the guidelines that an "analysis plan" is part of the required process and appears to be a critical component in defining the scope and data required in the preparation of an ecological risk assessment.

I am requesting the following information:

1. A copy of the analysis plan, as defined in the guidelines, for EPA's ecological risk assessment entitled *An Assessment of Potential Mining Impacts on Salmon Ecosystems of Bristol Bay, Alaska*. I am requesting a copy of this analysis plan in a hard copy format.
2. The name(s) and organization(s) of EPA employee(s) who prepared and approved the analysis plan.

Sincerely,



Randy Bailey

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